Office of the Communications Security Establishment Commissioner

2010-2011

Report on Plans and Priorities

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Minister of National Defence

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Commissioner's Message

It is a pleasure to present the *2010-11Report on Plans and Priorities*, the second Report on Plans and Priorities (RPP), of the Office of the Communications Security Establishment Commissioner (OCSEC) and my first RPP as its Commissioner.

OCSEC has been operating since 1996. However, given that this is only the Office's second RPP, a brief history may be useful. The Office of the Communication Security Establishment Commissioner was created with the appointment, by Order in Council pursuant to Part II of the *Inquiries Act*, of its first Commissioner, on June 19, 1996. Following the terrorist attacks in the United States on September 11, 2001, Parliament adopted the *Anti-terrorism Act* (ATA), which came into force on December 24, 2001. This Act amended the *National Defence Act* (*NDA*) by adding Part V.1 and creating legislative frameworks for both the Commissioner and the Communications Security Establishment, now referred to as Communications Security Establishment Canada (CSEC). The mandate of the Commissioner is: to review the activities of the CSEC to ensure that they comply with the law, including safeguarding the privacy of Canadians; to investigate complaints about CSEC's activities; and, to inform the Minister of National Defence and the Attorney General of Canada of any activities of CSEC that the Commissioner believes may not be in compliance with the law. As a result of the ATA, the Commissioner was also given a new duty pursuant to the *Security of Information Act* regarding persons who are permanently bound to secrecy and who want to reveal special operational information and claim a public interest defence.

OCSEC exists to support the Communications Security Establishment Commissioner in fulfilling his or her mandate. From its creation in 1996, OCSEC had been funded by the Department of National Defence (DND) but received administrative and other support from the Privy Council Office (PCO). In April 2008, OCSEC was established as a separate agency with its own appropriation and began, at that time, the process of transitioning from full dependence for administrative and operational support to complete independence. As a result, our financial resource requirements are now slightly in excess of $2 million dollars while our human resource requirements are 10, supported by a number of subject matter experts, as required.

This report details the plans and priorities of my Office over the next three years. The reviews, both underway and planned, will examine CSEC's mandated activities to determine whether they comply with the law and safeguard the privacy of Canadians. The review results will enable the Commissioner to provide assurance to the Minister and through him to all Canadians that these activities have been conducted lawfully and that the privacy of Canadians has been safeguarded in the process.

The Honourable Peter Cory, C.C, C.D.
Commissioner

Section I - Departmental Overview

1.1 Summary Information

Raison d'être

The Office of the Communications Security Establishment Commissioner exists to support the Commissioner in ensuring that Communications Security Establishment Canada performs its duties and functions in accordance with the laws of Canada, including safeguarding the privacy of Canadians.

Responsibilities

The duties of the Commissioner are set out under subections 273.63(2) and (3) and 273.65(8) of the *National Defence Act*:

NDA 273.63(2)

a) to review the activities of the Communications Security Establishment Canada to ensure they comply with the law;
b) in response to a complaint, to undertake any investigation that the Commissioner considers necessary;
c) to inform the Minister of National Defence and the Attorney General of Canada of any activity of Communications Security Establishment Canada that the Commissioner believes may not be in compliance with the law;

NDA 273.63(3)

to submit an annual report to the Minister on the Commissioner's activities and findings within 90 days after the end of each fiscal year;

NDA 273.65(8)

review and report to the Minister as to whether the activities carried out under a ministerial authorization are authorized;

and under the Section 15 of the *Security of Information Act:*

to receive information from persons who are permanently bound to secrecy and who seek to defend the release of classified information about Communications Security Establishment Canada on the grounds that it is in the public interest.

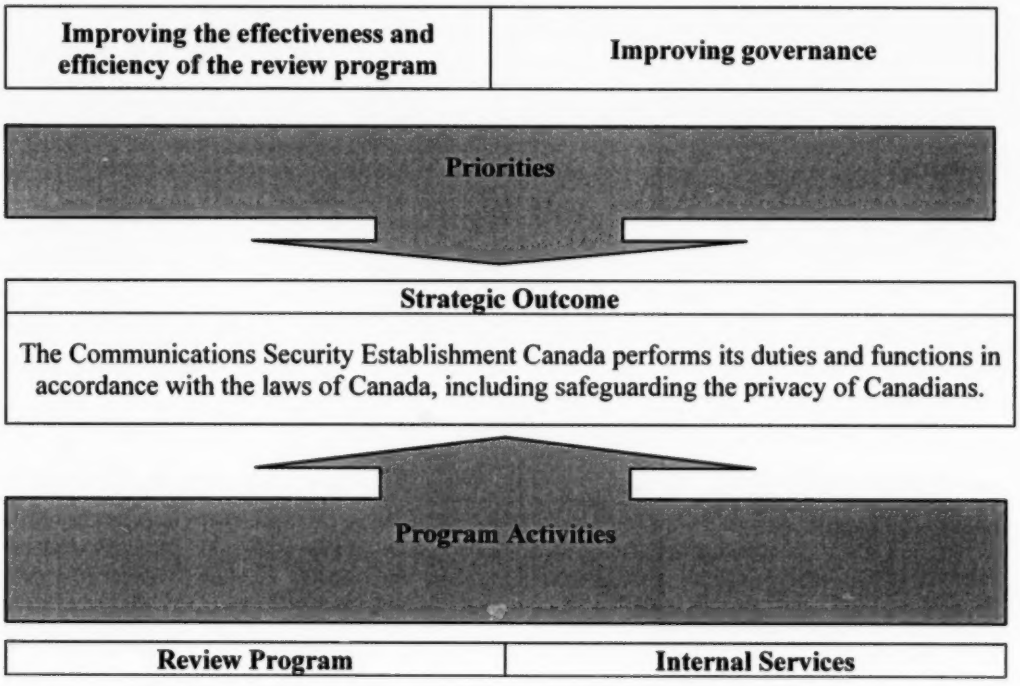
The current duties have evolved over time. The first Commissioner of the Communications Security Establishment was appointed by Order in Council pursuant to Part II of the *Inquiries Act* on June 19, 1996. The original mandate of the Commissioner was to review the activities of the Communications Security Establishment Canada (CSEC) to ensure that they were in compliance with the law and to investigate complaints about CSEC's activities. Following the terrorist attacks in the United States, Parliament adopted the *Anti-terrorism Act,* which came into force on December 24, 2001. This Act amended the *National Defence Act* (*NDA*) by adding Part V.1 and creating legislative frameworks for both the CSEC and the Commissioner. The Commissioner was also given a new duty pursuant to the *Security of Information Act* regarding persons who are permanently bound to secrecy and who want to reveal special operational information and claim a public interest defence.

The Office of the Communications Security Establishment Commissioner operates out of Ottawa. It is a micro-agency with an overall budget slightly in excess of $2 million and a staff of 10. It should be noted that the *National Defence Act* provides the Commissioner with independent hiring authority, and accordingly, OCSEC operates as a separate employer.

Strategic Outcome

The strategic outcome of the Office of the Communications Security Establishment Commissioner is that the CSEC performs its duties and functions in accordance with the laws of Canada. This includes safeguarding the privacy of Canadians. OCSEC has two program activities – its review program and internal services.

The relationship of the program activities, the priorities and the strategic outcome is illustrated in the diagram below.


Improving the effectiveness and efficiency of the review program
Improving governance
Priorities
Strategic Outcome
The Communications Security Establishment Canada performs its duties and functions in accordance with the laws of Canada, including safeguarding the privacy of Canadians.
Program Activities
Review Program
Internal Services

1.2 Planning Summary

Financial Resources ($ millions)

2010-2011	2011-2012	2012-2013
$2.1	$2.1	$2.1

The financial resources table above provides a summary of the total planned spending for the Office of the Communications Security Establishment Commissioner for the next three fiscal years.

Human Resources

2010-2011	2011-2012	2012-2013
10	10	10

The human resources table above provides a summary of the total planned human resources for the Office of the Communications Security Establishment Commissioner for the next three fiscal years.

Planning Summary Table

The Planning Summary table below lists the strategic outcome along with the associated performance indicators and targets. The table also includes each program activity along with its expected results and displays the financial resources allocated to each. Finally, alignment with Government of Canada outcomes is shown with a hyperlink to a more detailed discussion of the departmental contribution.

Strategic Outcome: The Communications Security Establishment Canada performs its duties and functions in accordance with the laws of Canada. This includes safeguarding the privacy of Canadians.

Performance Indicators	**Targets**
Degree of CSEC compliance with the laws of Canada	Maintain or improve the degree of compliance throughout the planning period
Extent to which privacy of Canadians is safeguarded	Maintain or strengthen the privacy of Canadian identity information

Program Activity	**Expected Results**	**Forecast Spending 09-10 (millions)**	**Planned Spending (millions)**			**Alignment to Gov't of Canada Outcomes**
			2010 - 11	**2011 - 12**	**2012 – 13**	
Review Program	CSEC complies with the laws of Canada and safeguards the privacy of Canadians	1.2	1.6	1.6	1.6	Safe and secure Canada
Internal Services	Increased effectiveness	.4	.5	.5	.5	Safe and secure Canada

Contribution of Priorities to Strategic Outcomes

The priorities set out below are the specific items that OCSEC has chosen to focus its attention and resources on during the planning period in order to progress towards achievement of its strategic outcome (SO).

Operational Priorities	Type	Links to Strategic Outcome	Description
Improving the effectiveness and efficiency of the review program	Ongoing	SO 1	OCSEC anticipates the introduction of legislative amendments to the *National Defence Act* that will remove ambiguities and provide clarification to terms and definitions related to CSEC's legislated authority. Ultimately this will assist the Commissioner in interpreting CSEC's legislated authority and in reviewing how it is applied. OCSEC will continue to refine its criteria related to the selection of reviews to ensure that areas of greatest risk are addressed. As well, OCSEC will also continue to work collaboratively with CSEC in the planning and execution of reviews to ensure that reviews are completed in a timely manner and that the recommendations resulting from them are accepted. OCSEC plans to expand its capacity to perform reviews and will focus on recruiting professionals to maintain, expand and reinforce current capabilities. In order to promote a greater appreciation and understanding of the challenges facing the security and intelligence community, OCSEC will continue to support international and domestic conferences addressing key security and intelligence issues.

Operational Priorities	Type	Links to Strategic Outcome	Description
			The Commissioner will continue to meet senior government officials to discuss his mandate and to foster a greater understanding of the challenges being faced.
Management Priorities			
Improving governance	New	SO 1	2010-11 will be the third year of operations for OCSEC as an independent agency. Over the planning period, OCSEC will examine its financial, personnel, procurement, informatics and security practices to ensure that they meet the operational and information requirements of OCSEC management in an efficient and effective manner and that they are in compliance with the legislative and policy requirements of the central agencies. Additional office accommodation with the appropriate security fit-up must also be acquired in a timely manner in order that the existing and planned operational capacity will not be impeded by a lack of suitable space.

Risk Analysis

Proposed amendments to the National Defence Act, to address ambiguities identified by previous commissioners, have yet to be introduced into Parliament. In the 2007/2008 Commissioner's public annual report, my predecessor stated that the government had indicated it would bring forward amendments "in due course". He also observed that "the length of time that has passed without producing amended legislation puts at risk the integrity of the review process." The Office will continue to monitor and pursue this situation so that clarity can be brought to the review of CSEC's activities that are conducted under ministerial authorizations.

OCSEC was effectively without a commissioner for six months between the hospitalization and subsequent death in mid-July of my predecessor, the late Honourable Charles Gonthier, and my appointment which was effective December 14th, 2009. While the work of the office continued, the absence of a commissioner meant that no reports could be finalized, signed and forwarded to the Minister. A backlog has developed. The Office will review and revise its existing workplan considering the existing backlog and

the current priorities, the planned legislative changes, and the current and anticipated resource levels, and commence its implementation.

The success of the review process depends to a great extent on the cooperation of CSEC. Annual roundtable meetings between OCSEC staff and CSEC officials aimed at optimizing the review process while minimizing adverse impacts on CSEC's mandated activities have been held in the past three years and have proven very useful. Efforts will continue in this regard to ensure that not only the individual reviews proceed as efficiently as possible but also that the overall program is as effective as possible.

Effective resource management is critical to the overall success of OCSEC. OCSEC will institute more comprehensive human resource planning to address both its short and long-term needs. The Office will also work more closely with PWGSC to help ensure that additional secure office space is made available as soon as possible so as not to impact negatively on the planned expanded level of review activity. And finally, the newly established financial, administrative, information, security and human resource systems will be reviewed during the planning period to determine to what extent they meet the needs of OCSEC management and the requirements of the central agencies.

Expenditure Profile

In 2008-09, OCSEC received its first appropriation of approximately $1.5 million. This funding replaced funding previously provided by DND. Having its own appropriation required OCSEC to move toward administrative independence and to replace support services previously provided by DND and the Privy Council Office with its own support services.

In 2009-10, the level of funding increased to $2.1 million. The additional funding was to firmly establish OCSEC as a separate agency and be used to expand the review program, to acquire additional office space, and to increase the administrative support to the expanded review program. This level of funding, $2.1 million, will remain constant over the planning period.

2010-11 Allocation of Funding by Program Activities

The funding will be for the OCSEC review program and for internal services. It should be noted that the Commissioner's mandate also includes undertaking any investigation deemed necessary in response to a complaint. If a complaint is received which requires an investigation and formal hearing, it is quite likely that additional funding would have to be requested. The Commissioner also has a duty under the *Security of Information Act* to receive information from persons who are permanently bound to secrecy and seek to defend the release of classified information about CSEC on the grounds that it is in the public interest. No such matters were reported in the past three fiscal years.

Voted and Statutory Items

Voted and Statutory Items displayed in the Main Estimates ($ millions)

Vote No. or Statutory Item	Truncated Vote or Statutory Wording	2009 – 10 Main Estimates	2010 – 11 Main Estimates
25	Program expenditures	1.4	2.0
(S)	Contributions to employee benefit plans	.1	.1
	Total for the Office of the CSE Commissioner	1.5	2.1

SECTION II - ANALYSIS OF PROGRAM ACTIVITY BY STRATEGIC OUTCOME

2.1 Strategic Outcome

The Communications Security Establishment Canada performs its duties and functions in accordance with the laws of Canada, including safeguarding the privacy of Canadians.

The following section describes OCSEC's program activity and the expected result of this activity. This section also explains how OCSEC plans on meeting the expected results and presents the financial and non-financial resources that will be dedicated to the program activity.

This section will contain information on OCSEC's program activity as well as the internal services activity.

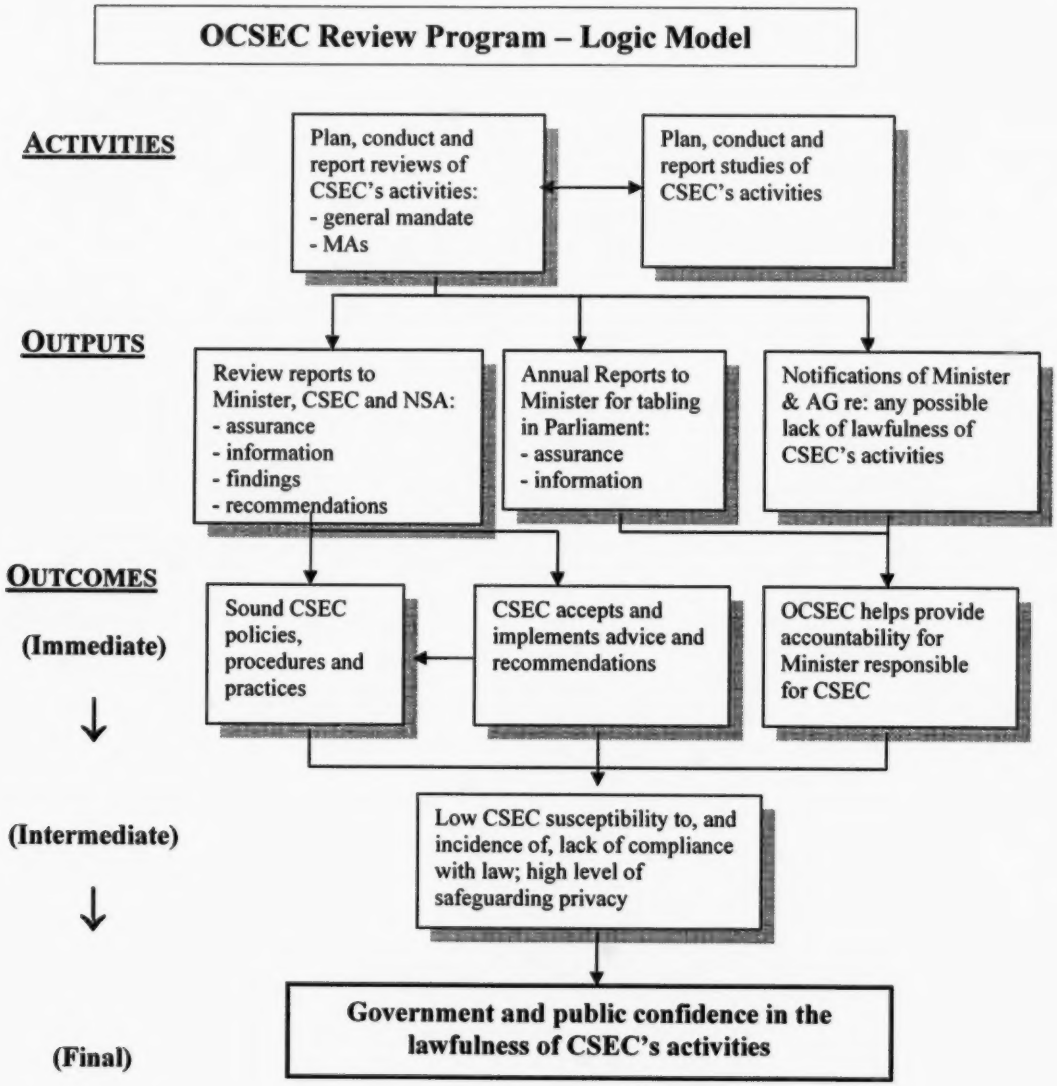
2.1.1 Program Activity – Review Program

Program Activity Expected Results	Performance Indicators	Targets
Recommendations resulting from the reviews conducted are accepted and implemented by CSEC.	% of recommendations implemented	80%
Reviews are completed within targeted time frames as established by the Commissioner	% of reviews completed within time frames	80%

Financial Resources ($ millions)			Human Resources		
2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
1.6	1.6	1.6	7	7	7

The review program includes research, monitoring, planning, the conduct of reviews and the reporting of results. In addition, it also includes consultations and communications with CSEC officials, with other government officials, and senior representatives of the security community.

The following logic model provides a graphic description of how the review program functions.


OCSEC Review Program – Logic Model
ACTIVITIES
Plan, conduct and report reviews of CSEC's activities:
- general mandate
- MAs
Plan, conduct and report studies of CSEC's activities
OUTPUTS
Review reports to Minister, CSEC and NSA:
- assurance
- information
- findings
- recommendations
Annual Reports to Minister for tabling in Parliament:
- assurance
- information
Notifications of Minister & AG re: any possible lack of lawfulness of CSEC's activities
OUTCOMES
(Immediate)
Sound CSEC policies, procedures and practices
CSEC accepts and implements advice and recommendations
OCSEC helps provide accountability for Minister responsible for CSEC
(Intermediate)
Low CSEC susceptibility to, and incidence of, lack of compliance with law; high level of safeguarding privacy
(Final)
Government and public confidence in the lawfulness of CSEC's activities

Planning Highlights

In order to achieve the intended results, OCSEC plans to undertake the following:

- The current three year plan, as mentioned earlier, will have to be revised and restated to adjust for the six month period during 2009 when OCSEC was effectively without a Commissioner.

- The process for selecting reviews is a risk-based approach using a variety of tools and techniques including a "review priority matrix" which includes ten criteria.

The work plan is normally revised twice a year and CSEC is consulted prior to finalizing each revision. At this point in time, the current workplan for 2010-11 calls for the commencement of three new reviews and the completion of five reviews currently underway.

- Operate effectively – OCSEC is continuing to improve the quality of its review process to ensure that its findings and recommendations are accurate, fair, complete and supportable.

- Cooperation – It goes without saying that the success of OCSEC depends heavily on the cooperation established with CSEC. Briefings, presentations, training, information sessions, roundtables – all have become standard practices between the two organizations. OCSEC will continue to foster positive working relationships and information exchanges between the two organizations which will contribute to the effectiveness of the review process.

- OCSEC will continue to meet with other Canadian review bodies as well as with review bodies of other countries. In 2005, OCSEC initiated the Review Agencies Forum in which five agencies now participate and meet formally once or twice a year to discuss issues of mutual interest and concern, and to share best practices in review methodologies.

2.1.2 Program Activity – Internal Services

The Internal Services Program activity supports OCSEC's strategic outcome. This activity and the associated resources support the review program and other corporate obligations of OCSEC. The activity consists of: management, financial and administrative services (facilities, materiel and acquisition services), human resource services, information management services, security services, and information technology services

Program Activity Expected Results	Performance Indicators	Targets
Support services meet the needs and requirements of OCSEC management and the central agencies	Level of satisfaction expressed by OCSEC managers on the internal services program performance meeting their requirements Central agencies rating of performance	90% 80%
Support services are provided in an efficient and economical manner	Results of internal reviews support the manner in which support services are provided (% of internal reviews that do not find deficiencies)	70%

Financial Resources ($ millions)			Human Resources (FTEs)		
2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
.5	.5	.5	3	3	3

In order to fully support the review program, OCSEC plans to undertake the following:

- OCSEC needs to assess more fully the operational support requirements required by the review program now that it has a full year of operating independently. Once the support requirements are more accurately determined, appropriate resources will be put in place (staff or contract) to provide the full range of services to the level required, including finance, human resources, administration, informatics, information management, and security. The OCSEC policies and procedures manual will continue to be updated.

- Strengthen the Management Accountability Framework (MAF) – OCSEC intends to work with Treasury Board officials to refine its MAF and adjust its performance measurement framework, where necessary.

- Internal management reviews - OCSEC management will institute a series of informal assessments of the various corporate functions to ensure the needs and requirements of OCSEC are being met in an effective and efficient manner and that OCSEC complies with the legislative and policy requirements of the central agencies.

- Acquire additional secure office space – Of immediate concern is the acquisition of additional secure office space to alleviate current space limitations and to accommodate the additional resources necessary for both the review program and the associated administrative support.

Benefits for Canadians

OCSEC's activities support the Commissioner in his ability to provide assurance to the Minister, Parliament and to all Canadians that the activities undertaken by CSEC are in compliance with the law and that the privacy of Canadians has been safeguarded.

SECTION III - SUPPLEMENTARY INFORMATION

3.1 Other Items of Interest

The Office of the Communications Security Establishment Commissioner can be reached at the following address:

Office of the Communications Security Establishment Commissioner
P.O. Box 1984, Station "B"
Ottawa, ON K1P 5R5

The Office may also be reached:

Telephone: 613-992-3044
Facsimile: 613-992-4096
Email: info@ocsec-bccst.gc.ca

For further information on the Office of the Communications Security Establishment Commissioner, its mandate and function, please visit our website: www.ocsec-bccst.gc.ca